

REMARKS

Applicants have amended their claims herein to better clarify the invention.

Independent claims 1, 11, and 20, are amended herein to recite a first data storage device in communication with a second data storage device. Support can be found in the FIG. 3 which shows first data storage device 301 in communication with second data storage device 401. Claims 1, 11, and 20, are further amended herein to recite a least recently used protocol, wherein one or more of the least recently used files are written to one or more data storage devices. Support can be found in the Specification on Page 11 at Lines 14-16.

Claims 1, 11, and 20, are further amended herein to recite providing first information to the first data storage device and synchronously providing that first information to the second data storage device. Support can be found in the Specification on Page 12 at Lines 3-4 and in step 520 of FIG. 4A wherein the method provides first information to the first data storage device, and on Page 15 at Lines 3-4 and in step 555 of FIG. 4A wherein the method synchronously provides the first information to the second data storage device.

No new matter has been entered. Reexamination and reconsideration of the application, as amended, is respectfully requested.

In the August 24, 2006 Office Action, the Examiner objects to the drawings as non-compliant with 37 CFR 1.84(p)(5) which reads "Reference characters not mentioned in the description shall not appear in the drawings. Reference characters mentioned in the description must appear in the drawings." In Amendment A, Applicants amended the drawings to delete reference characters not mentioned in the description.

The Examiner is requiring "LABELS" to be included in the drawings. Applicants have

amended FIGs. 1, 2, and 3, herein to include textual descriptors which correspond to the reference numerals shown in the FIGs. And described in the Specification.

Claims 1-4, 6, 11-12, 14, 16, 20-21, 23, and 25 stand rejected under 35 USC 102(b) as being anticipated by Ofek et al. (U.S. Pat. No. 5,889,935).

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of Cal.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed.Cir. 1987); MPEP 2131. Moreover, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed.Cir. 1989).

Applicants' independent claims 1, 11, and 20, are amended herein to recite a least recently used protocol wherein one or more of the least recently used files are written to one or more data storage devices. Rather, Ofek et al. teach use of an LRU queue 503. Ofek teaches:

The least-recently-used (LRU) queue 503 contains pointers to cache blocks that are available to be allocated. When a cache block is needed, the pointer at the head of the LRU queue 503 identifies the cache block that should be allocated.

Ofek et al. at Col. 36 / Lines 35-38. Ofek et al. clearly teach a method wherein a pointer in an LRU queue indicates which cache blocks should be overwritten if cache space is needed. Ofek et al. nowhere teach use of a least recently used protocol wherein one or more of the least recently used files are written to one or more data storage devices, as recited in Applicants' claims 1, 11, and 20, as amended herein.

Applicants' claims 1, 11, and 20, are further amended herein to recite synchronously providing first information to both a first data storage device and a second data storage device.

Ofek et al. actually teaches away from Applicant's claims 1, 11, and 20, as amended herein.

Ofek et al. expressly teaches that the LRU pointers are not used in a synchronous copy operation.

The pointer is also kept off the LRU queue 503 for remote write pending in the synchronous, semi-synchronous, and adaptive copy-write pending mode in order to retain the remote write pending data in cache.

Ofek et al. at Col. 36 / Lines 43-47.

Applicants respectfully submit that Ofek et al. fail to teach all the elements of Applicants' claims 1, 11, and 20, as amended herein. Therefore, Applicants further respectfully submit that claims 1, 11, and 20, as amended herein are not anticipated by Ofek et al.

Claims 2, 3, 4, and 6, as amended herein, depend, directly or indirectly, from claim 1, as amended herein.. Under 35 U.S.C. § 112, fourth paragraph, "a claim in dependent form shall be construed to incorporate by reference all the limitations of he claim to which it refers."

Therefore, claims 2, 3, 4, and 6, as amended herein, include all the elements of claim 1, as amended herein. Because claim 1, as amended herein, is not anticipated by Ofek et al., Applicant respectfully submit that claims 2, 3, 4, and 6, as amended herein, are patentable over Ofek et al.

Claims 12, 14, and 16, as amended herein, depend, directly or indirectly, from claim 11, as amended herein.. Under 35 U.S.C. § 112, fourth paragraph, "a claim in dependent form shall be construed to incorporate by reference all the limitations of he claim to which it refers."

Therefore, claims 12, 14, and 16, as amended herein, include all the elements of claim 11, as amended herein. Because claim 11, as amended herein, is not anticipated by Ofek et al., Applicant respectfully submit that claims 12, 14, and 16, as amended herein, are patentable

over Ofek et al.

Claims 21, 23, and 25, as amended herein, depend, directly or indirectly, from claim 20, as amended herein.. Under 35 U.S.C. § 112, fourth paragraph, "a claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers." Therefore, claims 21, 23, and 25, as amended herein, include all the elements of claim 20, as amended herein. Because claim 20, as amended herein, is not anticipated by Ofek et al., Applicant respectfully submit that claims 21, 23, and 25, as amended herein, are patentable over Ofek et al.

Having dealt with all of the outstanding objections and/or rejections of the claims, Applicants submit that the application as amended is in condition for allowance, and an allowance at an early date is respectfully solicited. In the event there are any fee deficiencies or additional fees are payable, please charge them, or credit an overpayment, to our Deposit Account No. 502262.

Respectfully submitted,

/Dale F. Regelman/

Dale F. Regelman, Ph.D.
Attorney for Applicants
Reg. No. 45,625

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that on this 24th day of January, 2007, the Preliminary Amendment is being filed via the Web Enabled Patent Filing System (EFT-WEB).

By: /Reena Mendez/

CHANDLER & UDALL, LLP
4801 E. Broadway Blvd
Suite 400
Tucson, AZ 85711-3609

TEL 520-623-4353
FAX 520-792-3426